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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Luke Zion Yochai-Adams-Trimmer,

Plaintiff,

v.

D.C.S., et al.,

Defendants.

No. CV-23-08128-PCT-JAT (JZB)

ORDER

Pro se Plaintiff Luke Zion Yochai-Adams-Trimmer, who is also known as Zion Z. Kauffman, is confined in the Arizona State Prison Complex-Eyman. Initially, he filed a civil rights Complaint pursuant to 42 U.S.C. § 1983. He then filed a First Amended Complaint (Doc. 5) and an Application to Proceed In Forma Pauperis (Doc. 6). The Court will grant the Application to Proceed and will dismiss the First Amended Complaint with leave to amend.

I. Application to Proceed In Forma Pauperis and Filing Fee

The Court will grant Plaintiff's Application to Proceed In Forma Pauperis. 28 U.S.C. § 1915(a). Plaintiff must pay the statutory filing fee of \$350.00. 28 U.S.C. § 1915(b)(1). The Court will not assess an initial partial filing fee. *Id.* The statutory filing fee will be collected monthly in payments of 20% of the previous month's income credited to Plaintiff's trust account each time the amount in the account exceeds \$10.00. 28 U.S.C. § 1915(b)(2). The Court will enter a separate Order requiring the appropriate government agency to collect and forward the fees according to the statutory formula.

II. Statutory Screening of Prisoner Complaints

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or an officer or an employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff has raised claims that are legally frivolous or malicious, that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1)–(2).

A pleading must contain a “short and plain statement of the claim *showing* that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8 does not demand detailed factual allegations, “it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Id.*

“[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Id.* (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* “Determining whether a complaint states a plausible claim for relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.” *Id.* at 679. Thus, although a plaintiff’s specific factual allegations may be consistent with a constitutional claim, a court must assess whether there are other “more likely explanations” for a defendant’s conduct. *Id.* at 681.

But as the United States Court of Appeals for the Ninth Circuit has instructed, courts must “continue to construe *pro se* filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less stringent standards than formal pleadings drafted by lawyers.’” *Id.* (quoting *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam)).

....

1 If the Court determines that a pleading could be cured by the allegation of other
 2 facts, a pro se litigant is entitled to an opportunity to amend a complaint before dismissal
 3 of the action. *See Lopez v. Smith*, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (en banc).
 4 Plaintiff's First Amended Complaint will be dismissed for failure to state a claim, but
 5 because it may possibly be amended to state a claim, the Court will dismiss it with leave
 6 to amend.

7 **III. First Amended Complaint**

8 A first amended complaint supersedes the original Complaint. *Ferdik v. Bonzelet*,
 9 963 F.2d 1258, 1262 (9th Cir. 1992); *Hal Roach Studios v. Richard Feiner & Co.*, 896 F.2d
 10 1542, 1546 (9th Cir. 1990). After amendment, the Court treats the original Complaint as
 11 nonexistent. *Ferdik*, 963 F.2d at 1262. Any cause of action that was raised in the original
 12 Complaint and that was voluntarily dismissed or was dismissed without prejudice is waived
 13 if it is not alleged in a first amended complaint. *Lacey v. Maricopa County*, 693 F.3d 896,
 14 928 (9th Cir. 2012) (en banc). Thus, the Court will consider only those claims raised in
 15 the First Amended Complaint against those Defendants named in the First Amended
 16 Complaint.

17 In his three-count First Amended Complaint, Plaintiff names as Defendants the
 18 State of Arizona, the Arizona Department of Child Safety (DCS), the Tempe Police
 19 Department, and Maricopa County Superior Court Judge Cassie B. Woo. He seeks
 20 monetary damages, for Defendant DCS to "dismiss the case," and for the State of Arizona
 21 to "do the same" and to "fix [his] kids['] birth papers w[ith his] real[] legal name."

22 In **Count One**, Plaintiff alleges he was subjected to excessive force and a threat to
 23 his safety, in violation of his First through Twelfth Amendment rights. He claims a "DCS
 24 worker" did not show him her DCS identification and he told her, "get out of here[,] you
 25 are not coming in." Plaintiff asserts the DCS worker pushed him out of the way, hit him,
 26 and told his children, "don[']t you want a new family that can give you anything that you
 27 want." He contends he told the DCS worker to leave or he would force her to leave.
 28 Plaintiff alleges he "ma[d]e her leave." He alleges the DCS worker called the Tempe Police

1 Department and, before the police arrived, the DCS worker told Plaintiff that “she will
 2 make sure it is a cold day in hell [before Plaintiff will] get [his] kids back” and that
 3 Plaintiff’s ex-wife and her family are “paying off D.C.S. [and] the Judge to keep [his] kids
 4 out of [his] home.” Plaintiff claims his ex-wife, her family, and Defendants Tempe Police
 5 Department, DCS, and Woo are prejudiced because he is Jewish and because of “our way
 6 of life.” He also asserts his children are being raped and hurt by the families with whom
 7 they are living. Plaintiff contends “[a]ll of this is unlawful [and] illegal,” he has not had a
 8 fair hearing, there is a “conflict of interest,” and there was no affidavit or warrant. He
 9 alleges he and his children have “PTSD, stress, TBI, pain, depression, anxiety, SMI, [and]
 10 Asperger[s].”

11 In **Count Two**, Plaintiff claims a violation of his right to the free exercise of his
 12 religion. He claims his ex-wife’s family and Defendants Tempe Police Department, DCS,
 13 and Woo are prejudiced against him because he is Jewish.

14 In **Count Three**, Plaintiff alleges his First through Twelfth Amendment rights were
 15 violated because Defendants State of Arizona and DCS “took [his] kids away in a[n] old
 16 name” that he “ha[s] not used” since March 3, 2020. He contends there was a due process
 17 violation because “documents” were filed “falsely and illegal[l]y” and “illegal evidence”
 18 was used against him.

19 **IV. Failure to State a Claim**

20 Although pro se pleadings are liberally construed, *Haines v. Kerner*, 404 U.S. 519,
 21 520-21 (1972), conclusory and vague allegations will not support a cause of action. *Ivey*
 22 *v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982). Further, a liberal interpretation of a
 23 civil rights complaint may not supply essential elements of the claim that were not initially
 24 pled. *Id.*

25 **A. Defendants State of Arizona and DCS**

26 Under the Eleventh Amendment to the Constitution of the United States, a state or
 27 state agency may not be sued in federal court without its consent. *Pennhurst State Sch. &*
 28 *Hosp. v. Halderman*, 465 U.S. 89, 100 (1984); *Taylor v. List*, 880 F.2d 1040, 1045 (9th

1 Cir. 1989). Furthermore, “a state is not a ‘person’ for purposes of section 1983. Likewise
 2 ‘arms of the State’ such as the Arizona Department of [Child Safety] are not ‘persons’
 3 under section 1983.” *Gilbreath v. Cutter Biological, Inc.*, 931 F.2d 1320, 1327 (9th Cir.
 4 1991) (citation omitted). Therefore, the Court will dismiss Defendants State of Arizona
 5 and Arizona Department of Child Safety.

6 **B. Defendant Tempe Police Department**

7 Defendant Tempe Police Department is a subpart of the City of Tempe, not a
 8 separate entity for purposes of suit. *Gotbaum v. City of Phx.*, 617 F. Supp. 2d 878, 886 (D.
 9 Ariz. 2008); *see Braillard v. Maricopa County*, 232 P.3d 1263, 1269 (Ariz. Ct. App. 2010)
 10 (county sheriff’s office is a nonjural entity); *see also Vicente v. City of Prescott*, 2012 WL
 11 1438695, at *3 (D. Ariz. 2012) (city fire department is a nonjural entity); *Wilson v. Yavapai*
 12 *County Sheriff’s Office*, 2012 WL 1067959, at *4 (D. Ariz. 2012) (county sheriff’s office
 13 and county attorney’s office are nonjural entities). Because Defendant Tempe Police
 14 Department is not a separate entity, it is not capable of being separately sued. Thus, the
 15 Court will dismiss Defendant Tempe Police Department.

16 Moreover, even if Plaintiff had sued the City of Tempe, his allegations do not
 17 support a claim. A municipality may not be sued solely because an injury was inflicted by
 18 its employees or agents. *Long v. County of Los Angeles*, 442 F.3d 1178, 1185 (9th Cir.
 19 2006). The actions of individuals may support municipal liability only if the employees
 20 were acting pursuant to an official policy or custom of the municipality. *Botello v.*
 21 *Gammick*, 413 F.3d 971, 978-79 (9th Cir. 2005). A § 1983 claim against a municipal
 22 defendant “cannot succeed as a matter of law” unless a plaintiff: (1) contends that the
 23 municipal defendant maintains a policy or custom pertinent to the plaintiff’s alleged injury;
 24 and (2) explains how such policy or custom caused the plaintiff’s injury. *Sadoski v. Mosley*,
 25 435 F.3d 1076, 1080 (9th Cir. 2006) (affirming dismissal of a municipal defendant pursuant
 26 to Fed. R. Civ. P. 12(b)(6)). Plaintiff has failed to allege facts to support that the City of
 27 Tempe maintained a specific policy or custom that resulted in a violation of Plaintiff’s
 28

1 federal constitutional rights and has failed to explain how his injuries were caused by any
2 municipal policy or custom.

3 **C. Defendant Woo**

4 Judges are absolutely immune from § 1983 suits for damages for their judicial acts
5 except when they are taken “in the ‘clear absence of all jurisdiction.’” *Stump v. Sparkman*,
6 435 U.S. 349, 356-57 (1978) (quoting *Bradley v. Fisher*, 80 U.S. 335, 351 (1871));
7 *Ashelman v. Pope*, 793 F.2d 1072, 1075 (9th Cir. 1986). An act is “judicial” when it is a
8 function normally performed by a judge and the parties dealt with the judge in his or her
9 judicial capacity. *Stump*, 435 U.S. at 362; *Crooks v. Maynard*, 913 F.2d 699, 700 (9th Cir.
10 1990). This immunity attaches even if the judge is accused of acting maliciously and
11 corruptly, *Pierson v. Ray*, 386 U.S. 547, 554 (1967), or of making grave errors of law or
12 procedure. *See Schucker v. Rockwood*, 846 F.2d 1202, 1204 (9th Cir. 1988).

13 Plaintiff’s allegations against Defendant Woo relate to actions she took in the course
14 of legal proceedings and, therefore, his claims against her are barred by judicial immunity.
15 Accordingly, the Court will dismiss Defendant Woo.

16 **V. Leave to Amend**

17 For the foregoing reasons, the Court will dismiss Plaintiff’s First Amended
18 Complaint for failure to state a claim upon which relief may be granted. Within 30 days,
19 Plaintiff may submit a second amended complaint to cure the deficiencies outlined above.
20 The Clerk of Court will mail Plaintiff a court-approved form to use for filing a second
21 amended complaint. If Plaintiff fails to use the court-approved form, the Court may strike
22 the second amended complaint and dismiss this action without further notice to Plaintiff.

23 Plaintiff must clearly designate on the face of the document that it is the “Second
24 Amended Complaint.” The second amended complaint must be retyped or rewritten in its
25 entirety on the court-approved form and may not incorporate any part of the original
26 Complaint or First Amended Complaint by reference. Plaintiff may include only one claim
27 per count.

28

1 A second amended complaint supersedes the original Complaint and First Amended
 2 Complaint. *Ferdik*, 963 F.2d at 1262; *Hal Roach Studios*, 896 F.2d 1542 at 1546. After
 3 amendment, the Court will treat the original Complaint and First Amended Complaint as
 4 nonexistent. *Ferdik*, 963 F.2d at 1262. Any cause of action that was raised in the original
 5 Complaint or First Amended Complaint and that was voluntarily dismissed or was
 6 dismissed without prejudice is waived if it is not alleged in a second amended complaint.
 7 *Lacey*, 693 F.3d at 928.

8 If Plaintiff files a second amended complaint, Plaintiff must write short, plain
 9 statements telling the Court: (1) the constitutional right Plaintiff believes was violated;
 10 (2) the name of the Defendant who violated the right; (3) exactly what that Defendant did
 11 or failed to do; (4) how the action or inaction of that Defendant is connected to the violation
 12 of Plaintiff's constitutional right; and (5) what specific injury Plaintiff suffered because of
 13 that Defendant's conduct. *See Rizzo*, 423 U.S. at 371-72, 377.

14 Plaintiff must repeat this process for each person he names as a Defendant. If
 15 Plaintiff fails to affirmatively link the conduct of each named Defendant with the specific
 16 injury suffered by Plaintiff, the allegations against that Defendant will be dismissed for
 17 failure to state a claim. **Conclusory allegations that a Defendant or group of**
 18 **Defendants has violated a constitutional right are not acceptable and will be**
 19 **dismissed.**

20 **VI. Warnings**

21 **A. Release**

22 If Plaintiff is released while this case remains pending, and the filing fee has not
 23 been paid in full, Plaintiff must, within 30 days of his release, either (1) notify the Court
 24 that he intends to pay the unpaid balance of his filing fee within 120 days of his release or
 25 (2) file a non-prisoner application to proceed in forma pauperis. Failure to comply may
 26 result in dismissal of this action.

27

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1 **B. Address Changes**

2 Plaintiff must file and serve a notice of a change of address in accordance with Rule
3 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other
4 relief with a notice of change of address. Failure to comply may result in dismissal of this
5 action.

6 **C. Possible “Strike”**

7 Because the First Amended Complaint has been dismissed for failure to state a
8 claim, if Plaintiff fails to file a second amended complaint correcting the deficiencies
9 identified in this Order, the dismissal may count as a “strike” under the “3-strikes”
10 provision of 28 U.S.C. § 1915(g). Under the 3-strikes provision, a prisoner may not bring
11 a civil action or appeal a civil judgment in forma pauperis under 28 U.S.C. § 1915 “if the
12 prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility,
13 brought an action or appeal in a court of the United States that was dismissed on the
14 grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be
15 granted, unless the prisoner is under imminent danger of serious physical injury.” 28
16 U.S.C. § 1915(g).

17 **D. Possible Dismissal**

18 If Plaintiff fails to timely comply with every provision of this Order, including these
19 warnings, the Court may dismiss this action without further notice. *See Ferdik*, 963 F.2d
20 at 1260-61 (a district court may dismiss an action for failure to comply with any order of
21 the Court).

22 **IT IS ORDERED:**

23 (1) Plaintiff’s Application to Proceed In Forma Pauperis (Doc. 6) is **granted**.

24 (2) As required by the accompanying Order to the appropriate government
25 agency, Plaintiff must pay the \$350.00 filing fee and is not assessed an initial partial filing
26 fee.

27

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(4) If Plaintiff fails to file a second amended complaint within 30 days, the Clerk of Court must, without further notice, enter a judgment of dismissal of this action with prejudice that states that the dismissal may count as a “strike” under 28 U.S.C. § 1915(g) and deny any pending unrelated motions as moot.

Dated this 29th day of August, 2023.

JDDL-K

**Instructions for a Prisoner Filing a Civil Rights Complaint
in the United States District Court for the District of Arizona**

1. Who May Use This Form. The civil rights complaint form is designed to help incarcerated persons prepare a complaint seeking relief for a violation of their federal civil rights. These complaints typically concern, but are not limited to, conditions of confinement. **This form should not be used to challenge your conviction or sentence.** If you want to challenge a state conviction or sentence, you should file a petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody. If you want to challenge a federal conviction or sentence, you should file a motion under 28 U.S.C. § 2255 to vacate sentence in the federal court that entered the judgment.
2. The Form. **Local Rule of Civil Procedure (LRCiv) 3.4 provides that complaints by incarcerated persons must be filed on the court-approved form.** The form must be typed or neatly handwritten. The form must be completely filled in to the extent applicable. All questions must be answered clearly and concisely in the appropriate space on the form. If needed, you may attach additional pages, **but no more than fifteen additional pages**, of standard letter-sized paper. You must identify which part of the complaint is being continued and number all pages. If you do not fill out the form properly, you will be asked to submit additional or corrected information, which may delay the processing of your action. You do not need to cite law.
3. Your Signature. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
4. The Filing and Administrative Fees. The total fees for this action are \$402.00 (\$350.00 filing fee plus \$52.00 administrative fee). If you are unable to immediately pay the fees, you may request leave to proceed in forma pauperis. Please review the “Information for Prisoners Seeking Leave to Proceed with a (Non-Habeas) Civil Action in Federal Court In Forma Pauperis Pursuant to 28 U.S.C. § 1915” for additional instructions.
5. Original and Judge’s Copy. You must send an **original plus one copy** of your complaint and of any other documents submitted to the Court. You must send one additional copy to the Court if you wish to have a file-stamped copy of the document returned to you. All copies must be identical to the original. Copies may be legibly handwritten. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**
6. Where to File. You should file your complaint in the division **where you were confined when your rights were allegedly violated.** See LRCiv 5.1(a) and 77.1(a). If you were confined in Maricopa, Pinal, Yuma, La Paz, or Gila County, file in the Phoenix Division. If you were confined in Apache, Navajo, Coconino, Mohave, or Yavapai County, file in the Prescott Division. If you were confined in Pima, Cochise, Santa Cruz, Graham, or Greenlee County, file in the Tucson Division. **Mail the original and one copy of the complaint with the \$402 filing and administrative fees or the application to proceed in forma pauperis to:**

Phoenix & Prescott Divisions:
U.S. District Court Clerk
U.S. Courthouse, Suite 130
401 West Washington Street, SPC 10
Phoenix, Arizona 85003-2119

OR

Tucson Division:
U.S. District Court Clerk
U.S. Courthouse, Suite 1500
405 West Congress Street
Tucson, Arizona 85701-5010

7. Change of Address. You must immediately notify the Court and the defendants in writing of any change in your mailing address. **Failure to notify the Court of any change in your mailing address may result in the dismissal of your case.**

8. Certificate of Service. You must furnish the defendants with a copy of any document you submit to the Court (except the initial complaint and application to proceed in forma pauperis). Each original document (except the initial complaint and application to proceed in forma pauperis) must include a certificate of service on the last page of the document stating the date a copy of the document was mailed to the defendants and the address to which it was mailed. *See Fed. R. Civ. P. 5(a), (d).* Any document received by the Court that does not include a certificate of service may be stricken. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**

A certificate of service should be in the following form:

I hereby certify that a copy of the foregoing document was mailed
this _____ (month, day, year) to:

Name: _____

Address: _____

Attorney for Defendant(s)

(Signature)

9. Amended Complaint. If you need to change any of the information in the initial complaint, you must file an amended complaint. The amended complaint must be written on the court-approved civil rights complaint form. You may file one amended complaint without leave (permission) of Court within 21 days after serving it or within 21 days after any defendant has filed an answer, whichever is earlier. *See Fed. R. Civ. P. 15(a).* Thereafter, you must file a motion for leave to amend and lodge (submit) a proposed amended complaint. LRCiv 15.1. In addition, an amended complaint may not incorporate by reference any part of your prior complaint. LRCiv 15.1(a)(2). **Any allegations or defendants not included in the amended complaint are considered dismissed.** All amended complaints are subject to screening under the Prison Litigation Reform Act; screening your amendment will take additional processing time.

10. Exhibits. You should not submit exhibits with the complaint or amended complaint. Instead, the relevant information should be paraphrased. You should keep the exhibits to use to support or oppose a motion to dismiss, a motion for summary judgment, or at trial.

11. Letters and Motions. It is generally inappropriate to write a letter to any judge or the staff of any judge. The only appropriate way to communicate with the Court is by filing a written pleading or motion.

12. Completing the Civil Rights Complaint Form.

HEADING:

1. Your Name. Print your name, prison or inmate number, and institutional mailing address on the lines provided.
2. Defendants. If there are **four or fewer** defendants, print the name of each. If you name **more than four** defendants, print the name of the first defendant on the first line, write the words “and others” on the second line, and attach an additional page listing the names of **all** of the defendants. Insert the additional page after page 1 and number it “1-A” at the bottom.
3. Jury Demand. If you want a jury trial, you must write “JURY TRIAL DEMANDED” in the space below “CIVIL RIGHTS COMPLAINT BY A PRISONER.” Failure to do so may result in the loss of the right to a jury trial. A jury trial is not available if you are seeking only injunctive relief.

Part A. JURISDICTION:

1. Nature of Suit. Mark whether you are filing the complaint pursuant to 42 U.S.C. § 1983 for state, county, or city defendants; “*Bivens v. Six Unknown Federal Narcotics Agents*” for federal defendants; or “other.” If you mark “other,” identify the source of that authority.
2. Location. Identify the institution and city where the alleged violation of your rights occurred.
3. Defendants. Print all of the requested information about each of the defendants in the spaces provided. If you are naming more than four defendants, you must provide the necessary information about each additional defendant on separate pages labeled “2-A,” “2-B,” etc., at the bottom. Insert the additional page(s) immediately behind page 2.

Part B. PREVIOUS LAWSUITS:

You must identify any other lawsuit you have filed in either state or federal court while you were a prisoner. Print all of the requested information about each lawsuit in the spaces provided. If you have filed more than three lawsuits, you must provide the necessary information about each additional lawsuit on a separate page. Label the page(s) as “2-A,” “2-B,” etc., at the bottom of the page and insert the additional page(s) immediately behind page 2.

Part C. CAUSE OF ACTION:

You must identify what rights each defendant violated. The form provides space to allege three separate counts (**one violation per count**). If you are alleging more than three counts, you must provide the necessary information about each additional count on a separate page. Number the additional pages “5-A,” “5-B,” etc., and insert them immediately behind page 5. Remember that you are limited to a total of fifteen additional pages.

1. Counts. You must identify which civil right was violated. **You may allege the violation of only one civil right per count.**
2. Issue Involved. Check the box that most closely identifies the issue involved in your claim. **You may check only one box per count.** If you check the box marked “Other,” you must identify the specific issue involved.
3. Supporting Facts. After you have identified which civil right was violated, you must state the supporting facts. Be as specific as possible. You must state what each individual defendant did to violate your rights. If there is more than one defendant, you must identify which defendant did what act. You also should state the date(s) on which the act(s) occurred, if possible.
4. Injury. State precisely how you were injured by the alleged violation of your rights.
5. Administrative Remedies. You must exhaust any available administrative remedies before you file a civil rights complaint. *See* 42 U.S.C. § 1997e. Consequently, you should disclose whether you have exhausted the inmate grievance procedures or administrative appeals for each count in your complaint. If the grievance procedures were not available for any of your counts, fully explain why on the lines provided.

Part D. REQUEST FOR RELIEF:

Print the relief you are seeking in the space provided.

SIGNATURE:

You must sign your name and print the date you signed the complaint. Failure to sign the complaint will delay the processing of your action. Unless you are an attorney, you may not bring an action on behalf of anyone but yourself.

FINAL NOTE

You should follow these instructions carefully. Failure to do so may result in your complaint being stricken or dismissed. All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number the pages.

Name and Prisoner/Booking Number

Place of Confinement

Mailing Address

City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

_____,
(Full Name of Plaintiff)

Plaintiff,

v.

(1) _____,
(Full Name of Defendant)

(2) _____,

(3) _____,

(4) _____,

Defendant(s).

☐ Check if there are additional Defendants and attach page 1-A listing them.

CASE NO. _____
(To be supplied by the Clerk)

**CIVIL RIGHTS COMPLAINT
BY A PRISONER**

- ☐ Original Complaint
☐ First Amended Complaint
☐ Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:

☐ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983

☐ 28 U.S.C. § 1331; *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).

☐ Other: _____.

2. Institution/city where violation occurred: _____.

B. DEFENDANTS

1. Name of first Defendant: _____. The first Defendant is employed as: _____ at _____.

(Position and Title)
(Institution)
2. Name of second Defendant: _____. The second Defendant is employed as: _____ at _____.

(Position and Title)
(Institution)
3. Name of third Defendant: _____. The third Defendant is employed as: _____ at _____.

(Position and Title)
(Institution)
4. Name of fourth Defendant: _____. The fourth Defendant is employed as: _____ at _____.

(Position and Title)
(Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☐ Yes ☐ No
2. If yes, how many lawsuits have you filed? _____. Describe the previous lawsuits:
 - a. First prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____
 - b. Second prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____
 - c. Third prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

COUNT II

1. State the constitutional or other federal civil right that was violated: _____.

2. **Count II.** Identify the issue involved. Check **only one**. State additional issues in separate counts.
☐ Basic necessities ☐ Mail ☐ Access to the court ☐ Medical care
☐ Disciplinary proceedings ☐ Property ☐ Exercise of religion ☐ Retaliation
☐ Excessive force by an officer ☐ Threat to safety ☐ Other: _____.

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count II. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

_____.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

_____.

5. **Administrative Remedies.**

a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No

b. Did you submit a request for administrative relief on Count II? ☐ Yes ☐ No

c. Did you appeal your request for relief on Count II to the highest level? ☐ Yes ☐ No

d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____.

COUNT III

1. State the constitutional or other federal civil right that was violated: _____.

 2. **Count III.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

<input type="checkbox"/> Basic necessities	<input type="checkbox"/> Mail	<input type="checkbox"/> Access to the court	<input type="checkbox"/> Medical care
<input type="checkbox"/> Disciplinary proceedings	<input type="checkbox"/> Property	<input type="checkbox"/> Exercise of religion	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Excessive force by an officer	<input type="checkbox"/> Threat to safety	<input type="checkbox"/> Other: _____.	

 3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

 4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

 5. **Administrative Remedies.**
 - a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
 - b. Did you submit a request for administrative relief on Count III? ☐ Yes ☐ No
 - c. Did you appeal your request for relief on Count III to the highest level? ☐ Yes ☐ No
 - d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.

E. REQUEST FOR RELIEF

State the relief you are seeking:

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
DATE

SIGNATURE OF PLAINTIFF

(Name and title of paralegal, legal assistant, or
other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.